



Reprinted
February 24, 2009

SENATE BILL No. 374

DIGEST OF SB 374 (Updated February 23, 2009 6:35 pm - DI 77)

Citations Affected: IC 4-20.5; IC 5-22; IC 8-23.

Synopsis: Harvesting grasses on state property. Allows the Indiana department of transportation to enter into leases of highway rights-of-way and other state agencies to enter into leases on state property, for which responsibility is assigned to the lessee for the growth, maintenance, and harvesting of grasses or other plants that are suitable for processing into fuels or other energy products.

Effective: July 1, 2009.

Waltz, Steele, Landske

January 8, 2009, read first time and referred to Committee on Natural Resources.
February 16, 2009, amended, reported favorably — Do Pass.
February 23, 2009, read second time, amended, ordered engrossed.

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SB 374—LS 7165/DI 75+



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February 24, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 374

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-20.5-1-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a) Except as**
3 **provided in subsection (b), "property" means real property or an**
4 **interest in real property, including the following:**

- 5 (1) Any ownership interest in real property.
- 6 (2) A leasehold.
- 7 (3) A right-of-way.
- 8 (4) An easement, including a utility easement.

9 The term does not include personal property or an interest in personal
10 property.

11 **(b) For purposes of IC 4-20.5-22, "property" means any**
12 **ownership interest in real property.**

13 SECTION 2. IC 4-20.5-22 IS ADDED TO THE INDIANA CODE
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2009]:

16 **Chapter 22. Planting Grasses and Other Plants for Energy**
17 **Production**

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1 **Sec. 1. This chapter does not apply to a lease under IC 8-23-24.5.**

2 **Sec. 2. The intent of this chapter is to encourage the use of**
 3 **property owned by the state to promote the growth and harvesting**
 4 **of vegetation to be used as fuels and other energy products.**

5 **Sec. 3. As used in this chapter, "agency " has the meaning set**
 6 **forth in IC 4-20.5-1-3. The term includes a state institution.**

7 **Sec. 4. As used in this chapter, "vegetation" refers to grasses or**
 8 **other plants that are suitable for processing into fuels or other**
 9 **energy products. The term does not include grasses or other plants**
 10 **that may be used to feed livestock.**

11 **Sec. 5. To the extent permitted by federal law and when**
 12 **consistent with public safety, an agency may enter into leases with**
 13 **appropriate persons for the persons to plant, maintain, and harvest**
 14 **vegetation on state property owned or maintained by the agency**
 15 **for use in production of energy.**

16 **Sec. 6. A lease under this chapter must provide for the**
 17 **following:**

18 (1) **The lessee is responsible for planting, maintaining, and**
 19 **harvesting the vegetation at the lessee's cost.**

20 (2) **The lessee becomes the owner of the vegetation when**
 21 **harvested.**

22 (3) **The harvested vegetation must be used for the production**
 23 **of fuels or other energy products.**

24 (4) **The lease must include limitations on the height of any**
 25 **vegetation that is grown.**

26 **Sec. 7. A lease under this chapter may provide for the following:**

27 (1) **Any term of the lease that the agency considers best to**
 28 **implement the intent of this chapter, but not for more than**
 29 **four (4) years.**

30 (2) **For the lease of parcels of sizes that the agency considers**
 31 **the best to implement the intent of this chapter.**

32 (3) **Any other provisions that the agency considers useful to**
 33 **implement the intent of this chapter.**

34 **Sec. 8. The agency shall award a lease under this chapter to the**
 35 **responsive and responsible bidder who submits the highest bid for**
 36 **the particular lease.**

37 **SECTION 3. IC 5-22-21-1 IS AMENDED TO READ AS**
 38 **FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This chapter**
 39 **applies only to personal property owned by a governmental body that**
 40 **is a state agency.**

41 (b) **This chapter does not apply to the following:**

42 (1) **The sale of timber by the department of natural resources**

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under IC 14-23-4.

(2) The satisfaction of a lien or judgment by a state agency under court proceedings.

(3) The disposition of unclaimed property under IC 32-34-1.

(4) The sale or harvesting of vegetation (as defined in IC 8-23-24.5-3) under IC 8-23-24.5.

(5) The sale or harvesting of vegetation (as defined in IC 4-20.5-22-4) under IC 4-20.5-22.

SECTION 4. IC 8-23-9-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) As used in this section, "qualified work release program" refers to:

(1) a work release program that is established by the department of correction under IC 11-10-8 or IC 11-10-10; or

(2) a county work release program under IC 11-12-5.

(b) Notwithstanding IC 8-23-10, **but subject to IC 8-23-24.5**, the commissioner may contract with a qualified work release program for the maintenance of a highway right-of-way without taking competitive bids. As used in this subsection, "highway right-of-way" includes only the grass plats.

SECTION 5. IC 8-23-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. When consistent with public safety **and subject to IC 8-23-24.5**, the department shall plant trees along the rights-of-way of highways, streets, and roads for which responsibility is assigned to the department.

SECTION 6. IC 8-23-24.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 24.5. Planting Grasses and Other Plants for Energy Production

Sec. 1. The intent of this chapter is to encourage the use of highway rights-of-way owned by the state to promote the growth and harvesting of vegetation to be used as fuels and other energy products.

Sec. 2. As used in this chapter, "highway rights-of-way" refer to highway rights-of-way for which responsibility is assigned to the department.

Sec. 3. As used in this chapter, "vegetation" refers to grasses or other plants that are suitable for processing into fuels or other energy products. The term does not include grasses or other plants that may be used to feed livestock.

Sec. 4. To the extent permitted by federal law and when consistent with public safety, the department may enter into leases

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with appropriate persons for the persons to plant, maintain, and harvest vegetation on the highway rights-of-way for use in production of energy.

Sec. 5. A lease under this chapter must provide for the following:

(1) The lessee is responsible for planting, maintaining, and harvesting the vegetation at the lessee's cost.

(2) The lessee becomes the owner of the vegetation when harvested.

(3) The harvested vegetation must be used for the production of fuels or other energy products.

(4) The lease must include limitations on the height of any vegetation that is grown.

Sec. 6. A lease under this chapter may provide for the following:

(1) Any term of the lease that the department considers best to implement the intent of this chapter, but not for more than four (4) years.

(2) For the lease of parcels of sizes that the department considers the best to implement the intent of this chapter.

(3) Any other provisions that the department considers useful to implement the intent of this chapter.

Sec. 7. The department shall award a lease under this chapter to the responsive and responsible bidder who submits the highest bid for the particular lease.

Sec. 8. To the extent permitted by federal law, the department shall make the use of highway rights-of-way as provided in this chapter a priority over all other uses.

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COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 374, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 14, after "products." insert "**The term does not include grasses or other plants that may be used to feed livestock.**".

Page 2, line 16, delete "shall" and insert "**may**".

Page 2, between lines 27 and 28, begin a new line block indented and insert:

"(4) The lease must include limitations on the height of any vegetation that is grown."

and when so amended that said bill do pass.

(Reference is to SB 374 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 374 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-20.5-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a) Except as provided in subsection (b), "property" means real property or an interest in real property, including the following:**

- (1) Any ownership interest in real property.
- (2) A leasehold.
- (3) A right-of-way.
- (4) An easement, including a utility easement.

The term does not include personal property or an interest in personal property.

(b) For purposes of IC 4-20.5-22, "property" means any ownership interest in real property.

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SECTION 2. IC 4-20.5-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 22. Planting Grasses and Other Plants for Energy Production

Sec. 1. This chapter does not apply to a lease under IC 8-23-24.5.

Sec. 2. The intent of this chapter is to encourage the use of property owned by the state to promote the growth and harvesting of vegetation to be used as fuels and other energy products.

Sec. 3. As used in this chapter, "agency " has the meaning set forth in IC 4-20.5-1-3. The term includes a state institution.

Sec. 4. As used in this chapter, "vegetation" refers to grasses or other plants that are suitable for processing into fuels or other energy products. The term does not include grasses or other plants that may be used to feed livestock.

Sec. 5. To the extent permitted by federal law and when consistent with public safety, an agency may enter into leases with appropriate persons for the persons to plant, maintain, and harvest vegetation on state property owned or maintained by the agency for use in production of energy.

Sec. 6. A lease under this chapter must provide for the following:

- (1) The lessee is responsible for planting, maintaining, and harvesting the vegetation at the lessee's cost.
- (2) The lessee becomes the owner of the vegetation when harvested.
- (3) The harvested vegetation must be used for the production of fuels or other energy products.
- (4) The lease must include limitations on the height of any vegetation that is grown.

Sec. 7. A lease under this chapter may provide for the following:

- (1) Any term of the lease that the agency considers best to implement the intent of this chapter, but not for more than four (4) years.
- (2) For the lease of parcels of sizes that the agency considers the best to implement the intent of this chapter.
- (3) Any other provisions that the agency considers useful to implement the intent of this chapter.

Sec. 8. The agency shall award a lease under this chapter to the responsive and responsible bidder who submits the highest bid for the particular lease.

SECTION 3. IC 5-22-21-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This chapter applies only to personal property owned by a governmental body that is a state agency.

(b) This chapter does not apply to the following:

(1) The sale of timber by the department of natural resources under IC 14-23-4.

(2) The satisfaction of a lien or judgment by a state agency under court proceedings.

(3) The disposition of unclaimed property under IC 32-34-1.

(4) The sale or harvesting of vegetation (as defined in IC 8-23-24.5-3) under IC 8-23-24.5.

(5) The sale or harvesting of vegetation (as defined in IC 4-20.5-22-4) under IC 4-20.5-22."

Renumber all SECTIONS consecutively.

(Reference is to SB 374 as printed February 17, 2009.)

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